

### **REMARKS**

The present amendment is in response to the Office Action, dated April 13, 2004, where the Examiner has rejected claims 1-9, 21-27 and 29-38, and has objected to claims 20 and 28. By the present amendment, applicants have cancelled claims 2, 4, 30 and 32, and have amended claims 1, 3, 5, 9, 17, 29 and 36. Accordingly, after the present amendment, claims 1, 3, 5-29, 31 and 33-38 are pending in the application. Reconsideration and allowance of pending claims in view of the amendments and the following remarks are respectfully requested.

**A. Rejection of Claims 1-4, 6, 16-19, 21-23, 25-26, 29-32, 34 and 38 under 35 USC § 103(a)**

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The Examiner has rejected claims 1-4, 6, 16-19, 21-23, 25-26, 29-32, 34 and 38 under 35 USC § 103(a) as being unpatentable over Kroon (USPN 5,664,055) ("Kroon") in view of Kurdziel (USPN 5,692,098) ("Kurdziel"). Applicants respectfully disagree.

The Examiner states that Kurdziel discloses "determining whether a slope of the representative sample (initial analysis frames; column 3, lines 42-52) of the speech signal conforms to a defined characteristic slope stored in a reference database of spectral characteristics (column 4, lines 46-54); and selecting one of a first filter (pre-emphasis filter) and a second filter (high-pass filter; column 3, lines 40-41) for application to the speech signal prior to the coding based on the determination on the slope of the representative sample (initial analysis frames; column 3, lines 6-52)."

However, the Examiner's statements regarding the disclosure of Kurdziel does not conform with the sequence of the steps taught by Kurdziel. For example, Kurdziel clearly teaches that the pre-emphasis FIR high pass filter 12 receives the raw speech 10 and equalizes

the spectral magnitudes of the speech waveform, which in effect flattens the spectrum for voiced speech. (Col. 2, line 65 - Col. 3, line 7.) Further, Kurdziel states that filter may also be a conventional 1 KMz high pass RC filter. (Col. 3, lines 40-41.) Kurdziel states that the raw speech 10 is filtered to equalize the spectral amplitudes, i.e., remove any spectral tilt. Next, Kurdziel states that the pre-emphasized and filtered speech from the filter 12 is applied to a segmentation circuit 14 where the speech is segmented into initial analysis frames, i.e., the number of samples in each speech frame. These segments are then processed to determine the spectral magnitudes.

Now, even assuming, arguendo, that Kurdziel teaches “determining whether a slope of the representative sample of the speech signal conforms to a defined characteristic slope stored in a reference database of spectral characteristics” in the segmentation circuit 14 for initial analysis frames, which it does not, the segmentation circuit 14 Kurdziel occurs after the raw speech 10 is pre-emphasized and filtered by filter 12. Therefore, in Kurdziel, “selecting one of a first filter and a second filter for application to the speech signal prior to the coding” cannot be based on the result of the determination in the determining step because filter 12 is applied prior to the segmentation circuit 14, which the Examiner asserts to be determining the slope. Further, claim 1 has been amended to clarify that “the selecting step selects the first filter if the determining step determines that the slope of the representative sample of the speech signal conforms to the defined characteristic slope, and wherein the selecting step selects the second filter if the determining step determines that the slope of the representative sample of the speech signal is generally flat.” Thus, unlike Kurdziel, the selection of the first filter or the second filter depends upon the determination as to whether a slope of the representative sample of the speech signal

conforms to a defined characteristic slope stored in a reference database of spectral characteristics.

Accordingly, applicants respectfully submit that claim 1, as amended, is patentably distinguishable over the cited references, and claim 1 and its dependent claims 3, 6, 16-19, 21-23, and 25-26 should be allowed.

Further, independent system claim 29, which includes limitations similar to those of independent method claim 1, has been amended for clarification purposes to state that “the selector selects the first filter if the evaluator determines that the slope of the representative sample of the speech signal conforms to the defined characteristic slope, and wherein the selector selects the second filter if the evaluator determines that the slope of the representative sample of the speech signal is generally flat.” Accordingly, applicants respectfully submit that claim 29, as amended, and its dependent claims 31, 34 and 38 should also be allowed at least for the reasons stated above in conjunction with patentability of claim 1.

**B. Rejection of Claims 5, 7-9, 24, 33 and 35-36 under 35 USC § 103(a)**

The Examiner has rejected claims 5, 7-9, 24, 33 and 35-36 under 35 USC § 103(a) as being unpatentable over Kroon in view of Kurdziel, and further in view of well known prior art. Applicants respectfully disagree.

Applicants respectfully submit that claims 5, 7-9 and 24 depend from claim 1 and claims 33 and 35-36 depend from claim 29, and they should be allowed at least for the reasons stated above in conjunction with patentability of claims 1 and 29.

**C. Rejection of Claims 10-15, 27 and 37 under 35 USC § 103(a)**

The Examiner has rejected claims 10-15, 27 and 37 under 35 USC § 103(a) as being unpatentable over Kroon in view of Kurdziel, and further in view of Miseki, et al. (USPN 5,864,798) ("Miseki"). Applicants respectfully disagree.

Applicants respectfully submit that claims 10-15 and 27 depend from claim 1 and claim 37 depends from claim 29, and they should be allowed at least for the reasons stated above in conjunction with patentability of claims 1 and 29.

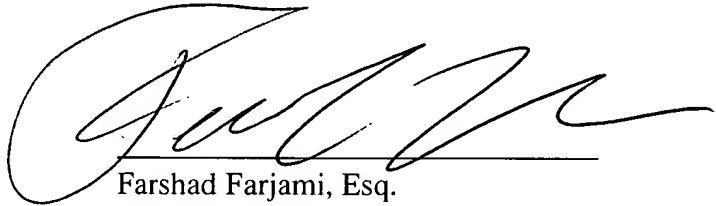
**D. Rejection of Pending Claims under the Judicially Created Doctrine of Obviousness-Type Double Patenting**

The Examiner has rejected claims 1-2, 4, 6-9, 11, 13, 15-30, 32 and 34-38 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of co-pending Application Serial No. 09/783,822, assigned to the assignee of the present application, Mindspeed Technologies, Inc. Along with the present amendment, applicants have submitted a terminal disclaimer to overcome the Examiner's rejection of claims 1-2, 4, 6-9, 11, 13, 15-30, 32 and 34-38 under the judicially created doctrine of obviousness-type double patenting over claims 1-31 of co-pending Application Serial No. 09/783,822. Applicants respectfully submit that the enclosed terminal disclaimer overcomes the Examiner's rejection.

**E. Conclusion**

For all the foregoing reasons, an early allowance of claims 1, 3, 5-29, 31 and 33-38 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;  
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